

AMENDED IN SENATE JUNE 27, 2011

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 901

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to add Chapter 12.9 (commencing with Section 7090) to Division 7 of Title 1 of the Government Code, *and* to amend Sections 44559.1, 44559.2, ~~44559.3~~, and 44559.6 of the Health and Safety Code, ~~and to add Section 26041 to the Public Resources Code~~, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 901, as amended, V. Manuel Pérez. Economic development: small business.

(1) Existing law establishes the California Economic Development Fund in the State Treasury to receive economic development funds and loan repayment and grant proceeds and authorizes the Secretary of Business, Transportation and Housing, upon appropriation by the Legislature, to expend the fund's revenue to provide matching funds for economic development purposes.

Existing federal law authorizes the federal Small Business Administration to make grants to a state to assist it in establishing small business development centers conditioned upon the grant applicant providing a matching amount.

This bill would establish the California Small Business Development Center Program in which a small business center overseen by an administrative lead center, defined as the entity contracting with the federal Small Business Administration, would assist the development and operation of small businesses. The bill would establish the SBA Account within the California Economic Development Fund and, upon appropriation by the Legislature, would authorize the Secretary of Business, Transportation and Housing to expend those funds for the sole purpose of providing matching funds for the federal grants made for small business development centers. The bill would require an administrative lead center to report to the Governor, the Legislature, and the Business, Transportation and Housing Agency for any year that state revenues are expended to support the program, as specified.

(2) Existing law establishes the Capital Access Loan Program, which is administered by the California Pollution Control Financing Authority, and defines the term “financial institution,” for purposes of that program. The authority is required to include specified terms in any contract that the authority enters into with a financial institution participating in the program, as specified. *Existing law requires the authority to establish a loss reserve account for each financial institution with which the authority makes a contract and prohibits the combined amount deposited by a participating financial institution in an individual loss reserve account over a 3-year period, in connection with a single borrower or a group of borrowers among which a common enterprise exists, from being more than \$100,000.* Existing law requires the authority to report annually to the Governor and the Legislature that describes the financial condition and the programmatic results of the Capital Access Loan Program for small businesses.

This bill would revise the definition of the term “financial institution” to include a small business financial development corporation or microenterprise development organization that meets standards that shall be established by the authority.

This bill would ~~also~~ require that the form contract used by the authority ~~shall revise the requirement that~~ *when contracting with a participating financial institution include provisions requiring the financial institution to provide information that to the authority may require to include* on the number of jobs created and the number of jobs retained *relative to loans made by the financial institution under the program.* The bill would provide that the combined amount deposited by a participating financial institution in an individual loss reserve

account over a 3-year period, in connection with a single borrower or a group of borrowers among which a common enterprise exists, shall not exceed \$200,000 if matching contributions are made by the authority exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010. The bill would also specify, for purposes of the annual report to the Governor and the Legislature, that programmatic results include, but is *are* not limited to, the total number of businesses served, jobs created, jobs retained, the geographic distribution of the loans, and the breakdown of businesses served by industry sector, as specified.

~~(3) The California Alternative Energy and Advanced Transportation Financing Act requires the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), in consultation with the State Energy Resources Conservation and Development Commission, to establish criteria for selecting projects related to renewable energy and alternative transportation technologies that would receive financial assistance, including loans, loan loss reserves, interest rate reductions, insurance, guarantees, and other credit enhancement or liquidity facilities, from the authority.~~

~~This bill would require the state CAEATFA to establish the Clean Energy and Jobs Incentive Program to provide financial assistance in the form of loan loss reserves to a participating financial institution providing loans to California-based entities for the development and expansion of manufacturing facilities or the installation of eligible technologies.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares the
- 2 following:
- 3 (1) Small businesses are a vital part of the state's economic
- 4 well-being, and documented evidence shows that small businesses
- 5 contribute to increased productivity and innovation.
- 6 (2) The prudent expansion of small businesses can expand
- 7 employment opportunities and contribute to the financial health
- 8 of the state.

(3) In order to maintain a healthy state economy and to aid communities, entrepreneurship among small businesses must be stimulated and supported.

(4) The California Small Business Development Center (SBDC) facilitates the success of small business by creating and retaining jobs, increasing sales and profits, securing business financing, and creating new businesses.

(5) A SBDC provides one-on-one business management counseling and assists small businesses with business plans, marketing, financing, and other business issues that promote and expand small businesses in the state.

(b) The Legislature intends all of the following:

(1) To stimulate the economy and to promote new job opportunities by assisting all small businesses by expanding and supporting the further development of the state's network of services to small businesses that shall include, among other things, management assistance, business education and training, capital formation assistance, economic and business data dissemination, and technical assistance.

(2) To provide assistance to the state's small businesses through management and staff experienced and knowledgeable in small business matters, which skills are not always readily available within the civil service system.

(3) To establish a structure that provides funding to match the federal funds provided to each SBDC.

(4) To include the following as goals for the SBDC program:

(A) Identifying appropriate sources of federal, state, and local public and private funding to support a SBDC.

(B) Promoting and rendering client services available through a SBDC to special emphasis groups in the community as well as to the general population of potential and existing business owners.

SEC. 2. Chapter 12.9 (commencing with Section 7090) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.9. CALIFORNIA SMALL BUSINESS DEVELOPMENT
CENTER PROGRAM

7090. The following definitions apply for purposes of this chapter:

1 (a) “Administrative lead center” means the entity with which
2 the federal Small Business Administration contracts to administer
3 the federal program funds pursuant to federal law under the Small
4 Business Development Center Act of 1980 (15 U.S.C. Sec. 631 et
5 seq.).

6 (b) “SBDC” means a small business development center.

7 7091. (a) The California Small Business Development Center
8 Program is hereby established for the purpose of expanding and
9 supporting the further development of the state’s network of
10 services to small businesses.

11 (b) The duties of a SBDC shall include, but are not limited to,
12 the following:

13 (1) Making referrals and disseminating information regarding
14 topics such as general legal requirements for starting a business,
15 public and private financing opportunities, local business
16 development profiles, and site inventory, and providing listings
17 of professional service providers.

18 (2) Providing specialized one-on-one counseling and technical
19 assistance in the areas of business planning and management,
20 financing, and marketing for small businesses with the greatest
21 potential for job retention and creation.

22 (3) Conducting regional workshops and conferences, as well as
23 local “how to” workshops, courses, and seminars with local
24 cosponsors such as community colleges, grantees of the federal
25 Minority Business Development Agency, the federal Small
26 Business Administration, the California Community Colleges
27 Economic and Workforce Development Program, and chambers
28 of commerce.

29 (4) Coordinating with employee training and placement
30 programs.

31 (5) Providing services to link small businesses to research and
32 development institutions for the purposes of transferring new
33 technology to a new or an expanding small business.

34 (c) An administrative lead center shall oversee and provide
35 assistance to each SBDC within its area.

36 (d) The California Small Business Development Center Program
37 shall, to the extent feasible, work in collaboration with the activities
38 of the Small Business Advocate, the California Small Business
39 Board within the Business, Transportation and Housing Agency,
40 the California Economic Strategy Panel, the Employment Training

1 Panel, the California Workforce Investment Board, and other state
2 economic and workforce development programs.

3 7092. (a) In order to qualify for funding pursuant to this
4 section, a SBDC shall be eligible for, and receive funds from, the
5 federal government pursuant to federal law under the Small
6 Business Development Center Act of 1980 (15 U.S.C. Sec. 631 et
7 seq.).

8 (b) The SBA Account is hereby created within the California
9 Economic Development Fund, established pursuant to Section
10 13997.6. Upon appropriation by the Legislature, moneys in the
11 SBA Account may be expended by the Secretary of Business,
12 Transportation and Housing for the sole purpose of providing
13 matching funds for federal funds under the Small Business
14 Development Center Act of 1980 (15 U.S.C. Sec. 631 et seq.).

15 (c) A SBDC may institute a policy for charging reasonable fees
16 for the training services it provides.

17 (d) A SBDC shall make every effort to secure additional funds
18 from federal, state, and local governments and from private funding
19 sources to support the services and programs it provides to small
20 businesses.

21 7093. (a) In any year that state revenues are expended to
22 support the California Small Business Development Center
23 Program, the administrative lead center that oversees a region in
24 which the state revenues are expended for federal matching
25 purposes pursuant to the Small Business Development Center Act
26 of 1980 (15 U.S.C. Sec. 631 et seq.), shall report by April 1 of the
27 following year, to the Governor, the Legislature, and the Business,
28 Transportation and Housing Agency on the activities of the
29 California Small Business Development Center Program in its
30 region.

31 (b) The report shall include, at a minimum, the number of
32 businesses assisted, the number of employees employed by those
33 businesses, the number of jobs created, the number of jobs retained,
34 the amount of state tax dollars generated from those businesses,
35 the industry sectors of the businesses assisted, and the amount of
36 federal funding allocated to the regional center during the reporting
37 period. This information shall be posted on the Internet Web site
38 of the Business, Transportation and Housing Agency no later than
39 three months after the end of the report period.

1 SEC. 3. Section 44559.1 of the Health and Safety Code is
2 amended to read:

3 44559.1. As used in this article, unless the context requires
4 otherwise, all of the following terms have the following meanings:

5 (a) “Authority” means the California Pollution Control
6 Financing Authority.

7 (b) “California Capital Access Fund” means a fund created
8 within the authority to be used for purposes of the program.

9 (c) “Executive director” means the Executive Director of the
10 California Pollution Control Financing Authority.

11 (d) (1) “Financial institution” means a federal- or state-chartered
12 bank, savings association, credit union, not-for-profit community
13 development financial institution certified under Part 1805
14 (commencing with Section 1805.100) of Chapter XVIII of Title
15 12 of the Code of Federal Regulations, or a consortium of these
16 entities. A consortium of those entities may include a nonfinancial
17 corporation, if the percentage of capitalization by all nonfinancial
18 corporations in the consortium does not exceed 49 percent.

19 (2) “Financial institution” also includes a lending institution
20 that has executed a participation agreement with the Small Business
21 Administration under the guaranteed loan program pursuant to
22 Part 120 (commencing with Section 120.1) of Chapter I of Title
23 13 of the Code of Federal Regulations and meets the requirements
24 of Section 120.410 of Chapter I of Title 13 of the Code of Federal
25 Regulations, a small business investment company licensed
26 pursuant to Part 107 (commencing with Section 107.20) of Chapter
27 I of Title 13 of the Code of Federal Regulations, and a small
28 business financial development corporation or microenterprise
29 development organization that meets standards that shall be
30 established by the authority. For loans where all or part of the fees
31 and matching contributions are paid by an entity participating in
32 the program pursuant to subdivision (e) of Section 44559.2,
33 “financial institution” also includes financial lenders, as defined
34 in Section 22009 of the Financial Code, making commercial loans,
35 as defined in Section 22502 of the Financial Code.

36 (3) A financial institution described in paragraph (2) shall be
37 domiciled or have its principal office in the State of California.

38 (e) “Loss reserve account” means an account in the State
39 Treasury or any financial institution that is established and
40 maintained by the authority for the benefit of a financial institution

1 participating in the Capital Access Loan Program established
2 pursuant to this article for the purposes of the following:

3 (1) Depositing all required fees paid by the participating
4 financial institution and the qualified business.

5 (2) Depositing contributions made by the state and, if applicable,
6 the federal government or other sources.

7 (3) Covering losses on enrolled qualified loans sustained by the
8 participating financial institution by disbursing funds accumulated
9 in the loss reserve account.

10 (f) “Participating financial institution” means a financial
11 institution that has been approved by the authority to enroll
12 qualified loans in the program and has agreed to all terms and
13 conditions set forth in this article and as may be required by any
14 applicable federal law providing matching funding.

15 (g) “Passive real estate ownership” means ownership of real
16 estate for the purpose of deriving income from speculation, trade,
17 or rental, but does not include any of the following:

18 (1) The ownership of that portion of real estate being used or
19 intended to be used for the operation of the business of the owner
20 of the real estate.

21 (2) The ownership of real estate for the purpose of construction
22 or renovation, until the completion of the construction or renovation
23 phase.

24 (h) “Program” means the Capital Access Loan Program created
25 pursuant to this article.

26 (i) “Qualified business” means a small business concern that
27 meets both of the following criteria, regardless of whether the
28 small business concern has operations that affect the environment:

29 (1) It is a corporation, partnership, cooperative, or other entity,
30 whether that entity is a nonprofit entity or an entity established for
31 profit, that is authorized to conduct business in the state.

32 (2) It has its primary business location within the boundaries of
33 the state.

34 (j) (1) “Qualified loan” means a loan or a portion of a loan
35 made by a participating financial institution to a qualified business
36 for any business activity that has its primary economic effect in
37 California. A qualified loan may be made in the form of a line of
38 credit, in which case the participating financial institution shall
39 specify the amount of the line of credit to be covered under the
40 program, which may be equal to the maximum commitment under

1 the line of credit or an amount that is less than that maximum
2 commitment. A qualified loan made under the program may be
3 made with the interest rates, fees, and other terms and conditions
4 agreed upon by the participating financial institution and the
5 borrower.

6 (2) “Qualified loan” does not include any of the following:

7 (A) A loan for the construction or purchase of residential
8 housing.

9 (B) A loan to finance passive real estate ownership.

10 (C) A loan for the refinancing of an existing loan when and to
11 the extent that the outstanding balance is not increased.

12 (D) A loan, the proceeds of which will be used in any manner
13 that could cause the interest on any bonds previously issued by
14 the authority to become subject to federal income tax.

15 (k) “Severely affected community” means any area classified
16 as an enterprise zone pursuant to the Enterprise Zone Act (Chapter
17 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
18 the Government Code), any area, as designated by the executive
19 director, contiguous to the boundaries of a military base designated
20 for closure pursuant to Section 2687 of Title 10 of the United States
21 Code, as amended, and any other comparable economically
22 distressed geographic area so designated by the executive director
23 from time to time.

24 (l) “Small Business Assistance Fund” means a fund created
25 within the authority pursuant to Section 44548.

26 (m) “Small business concern” has the same meaning as in
27 Section 632 of Title 15 of the United States Code, or as otherwise
28 provided in regulations of the authority.

29 SEC. 4. Section 44559.2 of the Health and Safety Code is
30 amended to read:

31 44559.2. (a) The authority may contract with any financial
32 institution for the purpose of allowing the financial institution to
33 participate in the Capital Access Loan Program established by this
34 article.

35 (b) For purposes of this section, the authority may contract with
36 participating financial institutions and shall utilize a standard form
37 of contract that is reviewed and approved by the Department of
38 General Services. The standard form of contract shall provide for
39 all of the following:

1 (1) The creation of a loss reserve account by the authority for
2 the benefit of the financial institution.

3 (2) The financial institution, qualified business, and the authority
4 will deposit moneys to the credit of the institution's loss reserve
5 account when the financial institution makes a qualified loan to a
6 qualified business.

7 (3) The liability of the state and the authority to the financial
8 institution under the contract is limited to the amount of money
9 credited to the loss reserve account of the institution.

10 (4) The financial institution shall provide the information that
11 the authority may require, including financial information that is
12 identifiable with, or identifiable from the financial records of a
13 particular customer who is the recipient of a qualified loan. In
14 addition to any other information that the authority may require,
15 the financial institution shall provide the complete North American
16 Industry Classification System (NAICS) for the qualified business,
17 the number of jobs created, the number of jobs retained, and
18 information that provides the precise geographic location of both
19 the qualified business and the borrower, if different.

20 (5) The financial institution will file a report with the executive
21 director setting out a full description of the board of directors,
22 including size, race, ethnicity, and gender.

23 (6) The participating financial institution will require each
24 borrower, prior to receiving a loan under the program, to sign a
25 written representation to the participating financial institution that
26 the borrower has no legal, beneficial, or equitable interest in the
27 nonrefundable premium charges or any other funds credited to the
28 loss reserve account established by the authority for the
29 participating financial institution.

30 (7) Other terms that the authority may require for purposes of
31 this article.

32 (c) A financial institution is not subject to laws restricting the
33 disclosure of financial information when the financial institution
34 provides information to the authority as required by paragraph (4)
35 of subdivision (b).

36 (d) A credit union operating pursuant to a certificate issued
37 under the California Credit Union Law (Division 5 (commencing
38 with Section 14000) of the Financial Code) may participate in the
39 Capital Access Loan Program established pursuant to this article
40 only to the extent participation is in compliance with the California

1 Credit Union Law. Nothing in this article shall be construed to
2 limit the authority of the Commissioner of Financial Institutions
3 to regulate credit unions subject to the commissioner's jurisdiction
4 under the California Credit Union Law.

5 (e) Any individual, company, corporation, institution, utility,
6 government agency, or other entity, including any consortium of
7 these persons or entities, whether public or private, may participate
8 in the Capital Access Loan Program established pursuant to this
9 article by depositing funds in the California Capital Access Fund
10 under those terms and conditions as may be deemed appropriate
11 by the authority.

12 *SEC. 5. Section 44559.3 of the Health and Safety Code is*
13 *amended to read:*

14 44559.3. (a) The authority shall establish a loss reserve
15 account for each financial institution with which the authority
16 makes a contract.

17 (b) The loss reserve account for a financial institution shall
18 consist of moneys paid as fees by borrowers and the financial
19 institution, moneys transferred to the account from a small business
20 assistance fund, any matching federal moneys, and any other
21 moneys provided by the authority or other source.

22 (c) Notwithstanding any other provision of law, the authority
23 may establish and maintain loss reserve accounts with ~~any~~ a
24 financial institution under such policies as the authority may adopt.

25 (d) All moneys in a loss reserve account established pursuant
26 to this article are the exclusive property of, and solely controlled
27 by, the authority. Interest or income earned on moneys credited to
28 the loss reserve account shall be deemed to be part of the loss
29 reserve account. The authority may withdraw from the loss reserve
30 account all interest or other income that has been credited to the
31 loss reserve account. ~~Any~~ A withdrawal made pursuant to this
32 subdivision may be made prior to paying any claim and shall be
33 used for the sole purpose of offsetting costs associated with
34 carrying out the program, including administrative costs and loss
35 reserve account contributions.

36 (e) ~~(1) The~~ *Except as provided in paragraph (2), the* combined
37 amount to be deposited by the participating financial institution
38 into ~~any~~ an individual loss reserve account over a three-year period,
39 in connection with ~~any~~ a single borrower or ~~any~~ a group of

1 borrowers among which a common enterprise exists, shall be not
2 more than one hundred thousand dollars (\$100,000).

3 *(2) The combined amount to be deposited by the participating*
4 *financial institution into an individual loss reserve account over*
5 *a three-year period, in connection with a single borrower or any*
6 *group of borrowers among which a common enterprise exists,*
7 *shall not exceed two hundred thousand dollars (\$200,000), if the*
8 *matching contribution made by the authority is funded exclusively*
9 *from funds made available pursuant to the federal Small Business*
10 *Jobs Act of 2010 (Public Law 111-240).*

11 ~~SEC. 5.~~

12 ~~SEC. 6.~~ Section 44559.6 of the Health and Safety Code is
13 amended to read:

14 44559.6. The authority shall annually prepare a report to the
15 Governor and the Legislature that describes the financial condition
16 and programmatic results of the capital access loan program for
17 small businesses authorized under this article. Programmatic results
18 shall include, but not be limited to, for all outstanding loans on
19 the date the report is issued and new loans issued since the report
20 from the prior year, the total number of businesses served, jobs
21 created, jobs retained, the geographic distribution of the loans, and
22 the breakdown of businesses served by industry sector.

23 ~~SEC. 6.~~ Section 26041 is added to the Public Resources Code,
24 to read:

25 ~~26041. (a) The authority shall establish the Clean Energy and~~
26 ~~Jobs Incentive Program for eligible California-based entities for~~
27 ~~the development and expansion of manufacturing facilities or the~~
28 ~~installation of eligible technologies.~~

29 ~~(b) The program shall provide a loan loss reserve account to a~~
30 ~~participating loan institution that would be responsible for the~~
31 ~~overall financial structure of the financial assistance for clean~~
32 ~~technology manufacturing development and expansion.~~

33 ~~(c) The program shall evaluate an application based on need,~~
34 ~~job development benefit, environmental benefit, and financial risk.~~

35 ~~(d) The program shall allow a participating financial institution~~
36 ~~to apply for loan loss reserve support for qualified loans for clean~~
37 ~~energy technology manufacturing development and expansion.~~

38 ~~(e) The program shall establish a process for allowing a lender~~
39 ~~applicant to become a participating financial institution and enroll~~
40 ~~in the loan loss reserve program.~~

1 ~~(f) The process established pursuant to subdivision (e) shall, at~~
2 ~~a minimum, require the lender applicant to provide certification~~
3 ~~of all of the following:~~

4 ~~(1) The applicant meets federal and state requirements for a~~
5 ~~financial institution.~~

6 ~~(2) The borrower has secured or made applications for all~~
7 ~~applicable licenses or permits needed to conduct business,~~
8 ~~including appropriate environmental review.~~

9 ~~(3) The borrower is a California-based entity that is developing~~
10 ~~an eligible technology.~~

11 ~~(4) The lender applicant and the borrower would not be able to~~
12 ~~enter into a loan without the loan loss reserve support.~~

13 ~~(g) The program shall give priority to lender applicants that are~~
14 ~~working with borrowers that have been offered financial assistance~~
15 ~~to relocate to another state or other countries.~~

16 ~~(h) To the extent funds are required to implement the program,~~
17 ~~that authority, upon the appropriation of the Legislature, may use~~
18 ~~federal funds as authorized by federal law, state funds, including~~
19 ~~the renewable energy public goods charge collected pursuant to~~
20 ~~Section 399.12 of the Public Utilities Code, or private funds to~~
21 ~~develop the program.~~